

pg. 1 of 15

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

FILED

AUG 23 2021

Richard Glossip, et. al.,

PLAINTIFFS,

CARMELITA REEDER SHINN, CLERK
U.S. DIST. COURT, WESTERN DIST. OKLA.
BY 14/3 DEPUTY

vs

CASE NO. CU-14-665-F

Randy Chandler, et. al.,

DEFENDANTS.

WADE LAY, PRO-SE PLAINTIFF

AS MOVANT

CAPITAL CASE

NOTICE OF APPEAL

PLAINTIFF WADE LAY'S AMENDED RESPONSE TO DOC. NO.

448 - PLAINTIFFS RESPONSE TO DOC. NO. 444, WITH ITS EX-

HIBIT - A (ALTERNATIVE TO EXECUTION PROTOCOLS) - WITH
NOTICE OF APPEAL

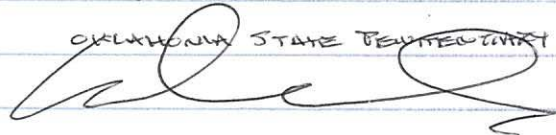
COME NOW PLAINTIFF WADE LAY TO FILE THIS AMENDED

COMPLAINT TO DOC. NO. 448, ALTERNATIVE TO EXECUTION

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN

WADE GREENE LAY #56263

OKLAHOMA STATE PENITENTIARY

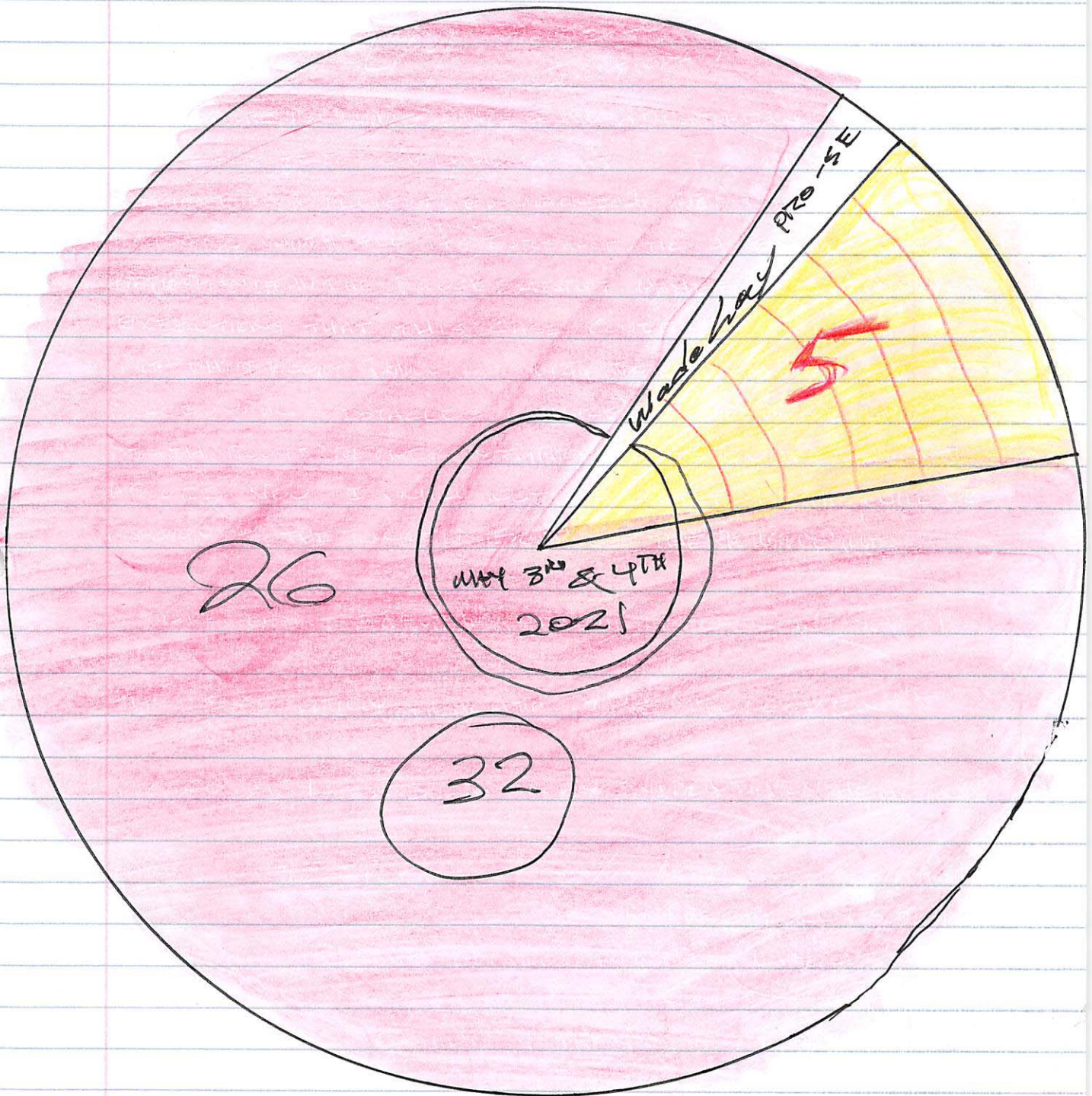


P.O. BOX 97

MCALISTER OKLAHOMA 74502

DATE: 08/19/2021

PRO-SE



DISTRICT OF OKLAHOMA (U.S.D.C. N.D. / OK.).

BACKGROUND:

ON 04/23/2021, THE H-UNIT MANAGER (MR. KIRBY) TOLD WADE LAY HE WOULD REMOVE OFFICER HOOD FROM THE SOUTH WEST QUAD AT H-UNIT, DUE TO THE REPEATED ABUSES THAT OFFICER HOOD CONTINUED TO EXERCISE TOWARDS LAY THE APPELLANT.

THE REMOVAL OF OFF. HOOD, AND THE PROMISE BY THE H-UNIT MGR. ON 04/23/2021 PROVED TO BE A ROSE, A PART OF A GREATER DECEPTION. ON 05/08/2021 O.S.P. PLACED OFF. HOOD ON THE S.W. QUAD TO FABRICATE A MISCONDUCT CHARGE, A MEANS TO CUT WADE LAY OFF FROM HIS FAMILY FOR NINETY (90) DAYS. (SEE *Lay v. A.C.L.U.*, CIV-21-665-J, DOC. NO. 1). IN THAT SAME WEEK, ⁶ i.e., THE WEEK OF MAY, 02-08, 2021, ATTORNEYS IN THE LETHAL INJECTION CASE *Glossip v. Chandler*,

HELD MEETINGS ON THE 3RD AND 4TH OF MAY 2021.

ALL THIRTY ONE (31) PRISONERS / PLAINTIFFS ON DEATH-ROW

(H-UNIT, A-UNIT, AND BRENDA ANDREW) WERE INFORMED OF

THE MEETINGS, WHERE THE ATTORNEYS WARNED, EACH ONE

CONCERNING THE UNITED STATES SUPREME COURT'S PRECEDENT

IN *Bucklew v. Precythe*, 139 S. CT. 1112 (2019). THE

PRISONERS WERE ADEQUATELY WARNED, THAT IF THEY

DID NOT PROVIDE AN ALTERNATIVE METHOD OF EXECUTION,

AS DETERMINED BY THE SUPREME COURT, THEY WOULD WITH

ALL PROBABILITY FACE SUMMARY JUDGMENT AND SUBSEQUENT

EXECUTION.

IN DOC. NO. 449 (THE W.D. COURT'S ORDER), AND DOC.

NO. 454 (THE W.D. COURT'S JUDGMENT TOWARDS WADE LAY),

U.S. DIST. JUDGE FRIOT STATES:

C. SUMMARY JUDGMENT STANDARDS

" UNDER RULE 56, FED. R. CIV. P., SUMMARY JUDGMENT SHALL BE GRANTED IF THE MOVANT SHOWS THAT THERE IS NO GENUINE DISPUTE AS TO ANY MATERIAL FACT AND THE MOVANT IS ENTITLED TO JUDGMENT AS A MATTER OF LAW. CELOTEX CORP. V. CATRETT, 477 U.S. 317, 325 (1986). A GENUINE ISSUE OF MATERIAL FACT EXISTS WHEN 'THERE IS SUFFICIENT EVIDENCE FAVORING THE NON-MOVING PARTY FOR A JURY TO RETURN A VERDICT FOR THAT PARTY.' ANDERSON V. LIBERTY LOBBY INC., 477 U.S. 247, 249 (1986). IN DETERMINING WHETHER A GENUINE ISSUE OF A MATERIAL FACT EXISTS, THE EVIDENCE IS TO BE TAKEN IN THE LIGHT MOST FAVORABLE TO THE NON-MOVING PARTY. ADICKES V. J.H. KRESS & CO., 398 U.S. 144, 151 (1970). ALL REASONABLE INFERENCES TO BE DRAWN FROM THE UNDISPUTED FACTS ARE TO BE DETERMINED IN A LIGHT MOST FAVORABLE TO THE NON-MOVANT. UNITED STATES V. AGRI SERVICES, INC., 81 F.3d 1002, 1005 (10th CIR. 1996). ONCE THE MOVING PARTY HAS MET ITS BURDEN, THE OPPOSING PARTY MUST COME FORWARD WITH SPECIFIC EVIDENCE, NOT MERE ALLEGATIONS OR DENIALS, DEMONSTRATING THAT THERE IS A GENUINE ISSUE FOR TRIAL. POSEY V. SKYLINE CORP., 702 F.2d 102, 105 (7th CIR. 1983). "

IT IS CRITICAL AT THIS POINT TO SHOW WHAT U.S. DIST. JUDGE ERNOT DOES ON JULY 19, 2021, WITH DOC. NO. 444, WITH ITS

EXHIBIT-A (DOC. NO. 444-1). JUDGE FRIOT, AS IT PERTAINS TO WADE LAY ALONE, STATES ON PAGE 1, THE FOLLOWING:

" THE OPERATIVE STATEMENT OF THE CLAIM OF WADE LAY IN THIS ACTION IS THE THIRD AMENDED COMPLAINT, DOC. NO. 325, FILED ON JULY 7, 2020, WHICH EXPRESSLY INCLUDES MR. LAY AS A PLAINTIFF. [(THIS STATEMENT IS COMPLETELY FALSE, TO BE EXPLAINED BELOW *Infra* . . .)] IN PARAGRAPH 114 OF THE THIRD AMENDED COMPLAINT, MR. LAY (ALONG WITH ALL THE OTHER PLAINTIFFS) PLEADS THE EXISTENCE OF METHODS OF EXECUTION, ITS ALTERNATIVES TO EXECUTION PER CHART D OF THE FEBRUARY, 2020 EXECUTION PROTOCOL (500 MILLIGRAMS OF MIDAZOLAM, FOLLOWED BY 100 MILLIGRAMS OF VECURONIUM BROMIDE, FOLLOWED BY 240 MILLIEQUIVALENTS OF POTASSIUM CHLORIDE), AS FOLLOWS:

" 114. SUBJECT TO THE FOREGOING, SOLELY FOR THE PURPOSE OF THIS PLEADING, BASED ON STATUTORY AUTHORITY AND CURRENT AND HISTORICAL PRACTICES, AND UPON INFORMATION AND BELIEF, COUNSEL ALLEGES ON BEHALF OF PLAINTIFFS (EACH OF WHOM RESERVE THE RIGHT FOLLOWING CONSULTATION WITH COUNSEL TO OBJECT TO ANY PROFFERED ALTERNATIVE), THE FOLLOWING ALTERNATIVE METHODS OF EXECUTION ARE FEASIBLE, AVAILABLE, READILY IMPLEMENTED AND WOULD SIGNIFICANTLY REDUCE A SUBSTANTIAL RISK OF SEVERE PAIN. DEFENDANTS HAVE REFUSED WITHOUT A PENOLOGICAL REASON, TO ADOPT ANY OF THESE ALTERNATIVES. "

U.S. DIST. JUDGE FRIOT GOES ON TO ITEMIZE FOUR (4)

METHODS OF EXECUTION AS ITEMS A-D. THE FIRST THREE

ARE CHEMICAL BASED METHODS, THE FOURTH (D) IS: "EXEC-

UTION BY FIRING SQUAD."

THE PLAINTIFF (WADE LAY) BEING COMPLETELY BLIND-

SIDED, TOTALLY UNAWARE OF THE CONTEXT, NOT ABLE

TO COMPREHEND THE METHODS OF (A-C), i.e. THE CHEM-

ICAL BASED METHODS OF EXECUTION, WAS, IN HIS KNOW-

ANCE AFRAID THE DEFENDANTS AND THE COURT WOULD

ENGINEERING AN ENVIRONMENT WHERE WADE LAY COULD

FACE A FIRING SQUAD. BEING CUT OFF FROM HIS FAMILY,

BEING UNABLE TO CONTACT ANY OTHER SOURCE OF KNOW-

LEDGE OTHER THAN SARAH JERNICIAN AT THE ORG. FED-

ERAL PUBLIC DEFENDER (F.P.D.), WADE LAY CALLS MISS

JERNICIAN AND SHE ERRONEOUSLY NURTURES THAT FEAR.

IF THE CIRCUIT COURT WILL VIEW ATTACHMENT NO. 1
OF WADE LAY'S IN RE: FILING FILED AT O.S.D. ON 08/11/21,
TO INFORM THE W.D. COURT OF HIS AMENDED RESPONSE,
FILED AT O.S.D. ON 08/16/21, AND OF SIMILAR ARGUMENTS
AS PROFFERED IN THIS NOTICE OF APPEAL, THE APPEALS
COURT WILL SEE THAT SARAH JETZKAN ON JULY 21,
2021, JUST 24 HOURS AFTER LAY RECEIVES DOC. NO.
444, OF HER OWN VOLITION WITHOUT BEING ASKED, SENDS
THE WRITTEN DECLARATION (ATTACHMENT NO. 1, BEING PRE-
SENTED HERE AS EXHIBIT 1249-A) THAT INFLUENCES
LAY WITH ADVICE THAT IS 180° OPPOSITE THAT WHICH
EVERY OTHER PLAINTIFF RECEIVED FROM COUNSEL AT
THE MAY 3RD AND 4TH MEETINGS.

FOR THAT REASON IT IS CRITICAL TO ASCERTAIN THE

ACTUAL STATUS, IN A LEGAL RESPECT, TO THE PRO-SE

PARTY - PLAINTIFF WADE LAY. WHEN THE DISTRICT

COURT GRANTS SUMMARY JUDGMENT AGAINST

WADE LAY'S "CLAIMS", AS DECLARED BY THE COURT

IN DOC. NO. 449, AND 454, TO BE "CLAIMS ASSERTED IN

THIS ACTION", ARE THOSE CLAIMS ABLE TO BE LEGALLY

ATTACHED TO WADE LAY AS A PARTY?

IF THE U.D. COURT, OR ANY OTHER COURT OF THE

UNITED STATES, INTENDS TO ATTACH CLAIMS TO A

PARTY IN A CIVIL ACTION, ESPECIALLY ONE THAT

THE OUTCOME OF THE JUDGMENT WILL RESULT IN THE

PLAINTIFF'S EXECUTION, THE PARTY HELD RESPONSIBLE FOR

SUCH CLAIM(S) MUST BE COGNITIVELY AWARE OF THE

SUBSTANCE OF SUCH CLAIMS. ADDITIONALLY, THE LIABILITY,

OR IN THIS CASE, THE CONSEQUENCES OF SUMMARY
JUDGMENT ON WAIVE LAY WCOE, ACTING PRO SE,
THE SUBJECT OF FRAUD THAT IS INTRINSIC AND
TANGIBLE, EXERCISED IN THIS CASE BY BOTH
DEFENDANTS AND PLAINTIFF'S COUNSEL, MUST BE
CONSIDERED EVEN WHEN IT MAY BE EMBRACED BY
THE PRESIDING JUDGE FASHIONING THE ORDER AND
JUDGMENT.

THE U.S. COURT IS IN ESSENCE, IN DOC. NO. 444,
WHICH EXTENDS INTO ITS ORDER (DOC. NO. 449) AND
ITS JUDGMENT (DOC. NO. 454) AGAINST LAY ADVANCES THE
LEGAL DOCTRINE OF NONE PRO TUNC, THAT IS, THE
DISTRICT COURT IS ADVANCING THE PROPOSITION THAT WAIVE
LAY BEARS SOME SORT OF JOINDER WITH THE OTHER PLAINTIFFS

AS IT PERTAINS TO THE THIRD AMENDED COMPLAINT.

(SEE DOC. NO. 444, AT P. 1, PAR. 1) STATING: "THE OPER-

ATIVE STATEMENT OF THE CLAIM OF WADE LAY IN THIS

ACTION IS THE THIRD AMENDED COMPLAINT." YET, AS IT

PERTAINS TO THE BENEFITS OF KNOWLEDGE AND COUNSEL

FROM THE PARTIES WHOM PROFFERED THE THIRD AMENDED

COMPLAINT, LAY IS DEPRIVED OF SUCH BENEFITS, EVEN

THE DOCUMENT NO. 325, THE THIRD AMENDED COMPLAINT.

IT IS CLEAR THE DISTRICT COURT WANTS TO PLACE

UPON THE RECORD IN DOC. NO. 444, THE PRETENCE

OF A SUPPOSED ACTION, THAT IS NOT IN REALITY SUBSTANTIAL

AS IT APPLIES TO PERFORMANCE OF THE ACTION. IN OTHER

WORDS, IF LAY IS TO BE HELD SUBJECT TO THE DISTRICT

COURT'S COMPELSION OF DOC. NO. 444, I.E., TO PROVIDE

AN ALTERNATIVE METHOD OF EXECUTION, THAT THE CLAIM OF THE OTHER PLAINTIFFS IS OPERATIVE TO WADE LAY, THE COURT IS OBLIGATED TO ENSURE WADE LAY RECEIVES THE KNOWLEDGE AND COUNSEL OF THOSE PUTTING FORTH SUCH A CLAIM. IT IS DECEITFUL TO DECLARE ON THE RECORD A SUPERFICIAL ACTION AS IT IS IN ITS PURPOSE VOID OF SUBSTANCE; THE CLAIM CANNOT BE OPERATIVE TO WADE LAY ASSENT THE KNOWLEDGE THAT WAS PROVIDED TO ALL THE OTHER PLAINTIFFS ON THE 3RD AND 4TH OF JULY, 2021 U.S.P..

IN REALITY, IF THE CIRCUIT COURT WILL VIEW THE PLEADINGS OF THIS ACTION FILED BY WADE LAY, THE DISTRICT REFUSING TO ALLOW WADE LAY THE ABILITY TO RESPOND TO THE DEFENDANT'S MOTION FOR SUMMARY JUDGMENT, THE JUDGMENT (DOCS. NO. 449 AND 454) SHOULD BE VACATED

PC 13

AND AN EVIDENTIARY HEARING ORDERED TO ASCERTAIN
THE FACTS PURSUANT TO THE STANDARD OF SUMMARY
JUDGMENT. (SEE SUPRA AT 4, WITH A VIEW OF DOC. NO. 310,
i.e., WADE LAY'S MOTION FOR SUMMARY JUDGMENT RESPONSE
PURSUANT TO FED. R. CIV. P. 56(d)). "AS A MATTER OF LAW",
UNDER *Celotex Corp. v. Catrett*, 447 U.S. 317, 325 (1980),
THE DEFENDANTS, AS IT APPLIES TO JUDGMENT AGAINST WADE
LAY (DOC. NO. 454), ARE NOT ENTITLED TO JUDGMENT.
ADDITIONALLY, THERE IS SUBSTANTIAL EVIDENCE FAV-
ORING THE NON-MOVING PARTY (WADE LAY), "A GENUINE
ISSUE OF MATERIAL FACT", THAT A COORDINATED EFFORT
IS EXHIBITED AS CLAIMED BY WADE LAY, THAT BUREAUCRATIC
OFFICERS HAVE COMBINED THEIR EFFORTS TO CONCEAL THE
KNOWLEDGE OF THE CASE CONTRARY TO LAW, SUCH AS
THE MEETINGS TAKING PLACE ON MAY 3RD AND 4TH, 2021,

WHERE EVERY OTHER PLAINTIFF WAS INFORMED OF THE
FACTS SURROUNDING THE W.D. COURT'S DEMANDS.

THIS INFORMATION, EVEN THE THIRD AMENDED COMPLAINT
THE DISTRICT COURT ATTACHES LAY TO FOR THE PURPOSE
OF DEC. NO. 444, WITH ITS COMPULSORY DEMAND TO
PROVIDE AN ALTERNATIVE METHOD OF EXECUTION, LAY
DID NOT HAVE IN HIS POSSESSION. NOT ONLY WAS
WADE LAY TOTALLY IN THE DARK CONCERNING
THE FACTS, THE F.P.D. MISS JERNICHAUS KNOWINGLY
DECEIVES WADE LAY WITH ADVICE THAT IS 180° OPPOSITE
THAT ADVICE GIVEN TO EVERY OTHER PLAINTIFF.

IT IS OBVIOUS, THAT WADE LAY WAS CUT OFF FROM
HIS FAMILY ON 05/08/2021 BY O.S.P. WITH
A FALSE FABRICATED CHARGE (SEE Lay V. A.C.H.U.,
CW-21-605-J, DEC. NO. 1, WHERE OFFICER HOOD GIVES

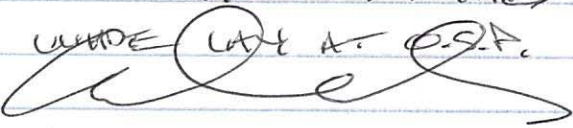
CONTRADICTORY TESTIMONIALS, AND LAY IS DEPRIVED
OF DUE PROCESS. IF LAY WOULD NOT HAVE BEEN
RESTRICTED IN HIS PHONE ACCESS ON JULY
20TH 2021, WHEN O.S.P. DELIVERS THE COMPULSORY
DOCUMENT NO. 444, WITH ITS EXHIBIT - A, WADE
LAY WOULD HAVE BEEN ABLE TO - FROM RHONDA
KEMP, HIS SISTER, ACQUIRE THE TRUE COUNSEL
FROM ATTORNEYS MISS KEMP HAD CONTACT WITH
ON A REGULAR BASIS.

Lay v. A.C.H.U. IS ALSO PENDING ON APPEAL IN
THIS COURT, FILED ON 08/16/2021, SEE EXHIBIT
1249-B. IF WADE LAY WOULD NOT HAVE BEEN CUT
OFF FROM HIS FAMILY BY THE DEFENDANTS, LAY
COULD HAVE HAD PROPER COUNSEL. ADDITIONALLY,
IT IS CRITICAL TO RECOGNIZE, IT IS THE DEFENDANTS

PR. 15

WHOW DEPRIVE LAY OF DUE PROCESS AND ACCESS
TO COURTS, LIMITING HIS CALLS TO A SINGLE SOURCE,
THE VERY SOURCE PROVIDING WADE LAY WITH
OPPOSITE ADVICE FROM EVERY OTHER, (31) OTHER
PLAINTIFFS. THIS IS NOT AN UNADVERTENCE OR
MISTAKE, IT IS A CONSPIRED EFFORT TO DECEIVE
WADE LAY TO CAUSE HIS EXECUTION !

WADE LAY BELS THIS CIRCUIT COURT TO STAY
THE EXECUTION, VACATE THE JUDGMENT
DOC NO. 454, AND ORDER AN EVIDENTIARY HEARING !

RESPECTFULLY SUBMITTED
WADE LAY AT P.S.A.

P.O. BOX 97
MCNESTER, EX. 74502